

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert R. Eddy & Judith E. Eddy,
Petitioners-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0834
Parcel No. 108/00847-304-000

On February 27, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Robert R. Eddy and Judith E. Eddy, were self-represented and requested the appeal take place without hearing. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, David Hibbard, and Anastasia Hum as its counsel. The Appeal Board now having examined the entire record, written testimony, and being fully advised, finds:

Findings of Fact

Robert R. Eddy and Judith E. Eddy, owners of property located at 3617 NW 90th Place, Polk City, Iowa, appeal from the Polk County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$420,600; representing \$53,500 in the land value and \$367,100 in dwelling value.

Eddy protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); that there is an error under section 441.37(1)(d); and that there has been a downward change in value under sections 441.27(1) and 441.35(3). This Board notes, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of*

Review, 2006 WL 1750300 (Iowa Ct. App. 2006). Eddys' error claim is that their four equity comparables received a reduction in assessed value while their property's assessment increased. The Board of Review denied the protest.

Eddys filed their appeal with this Board on the same grounds. They requested the assessed value to be lowered by 3% to 4%. Eddys did not state an amount they claim is the correct assessment. This Board will consider the grounds of equity and over assessment. Also, their error claim is essentially an equity claim.

The subject property consists of a one-story, frame dwelling with brick veneer. It has 2343 square feet, an attached garage of 864 square feet, and 1500 square feet of basement finish. It was built in 1993. The site consists of 0.930 acres of land.

To support their appeal grounds, Eddys submitted four equity comparables to the Board of Review that are located in the immediate area. These properties' assessments had decreased from 3% to 4%. The subject property assessment had increased. We do note that these four comparables were not adjusted to the subject property by the Eddys. The Board of Review Appraiser Analysis stated comparables 3 and 4 are inferior to the subject property, and the best comparable was comparable 2. It notes, however, that comparable 2 has less basement finish and lacks brick veneer. The appraiser analysis recommended the Board of Review deny the protest. The appraiser analysis did not address the market value of the subject property or the reason the comparables' assessments decreased and the subject property increased.

Eddys submitted a letter of explanation to this Board. The letter states the Polk County Assessor's Office encouraged the Eddys to protest because it could not understand the reason for the increase. The letter further stated the decision by the Board of Review was disappointing since all others in the Hunter Run development decreased in value and most other properties in Polk County decreased "according to the media."

The Eddys noted that the appraiser analysis commented that equity comparable 2, located at 3637 NW 90th Place right next door to the west of their residence, was the best owner equity comparable. However, Eddys go on to note that comparable 2's 2010 assessment was \$407,300 and was reduced to \$397,400 in 2011 a change of approximately 3%, while their property's value increased approximately 3% from \$407,600 in 2010 to \$420,000 in 2011. Eddys point out that the appraiser analysis commented that they have more square feet of finished basement; but, they note the difference amounts to 100 square feet, which they believe is very minimal. The Eddys state there are other differences between comparable 2 and the subject property that are not mentioned by the appraiser analysis including that the comparable has a larger garage; more square feet of main level living area; an additional half-bath; and that it has living quarters in the lower level (basement), which was not noted on the appraisal sheet.

Eddys also comment that their comparable 1, located at 3599 NW 90th Place right next door to the east of their residence, had its assessment decreased approximately 4%. Eddys do not understand the 7% difference in change between this assessment and their own. Additionally, they note comparable 1 has five garage spaces since the addition of a detached two-car garage in 2008. They also note other differences between comparable 1 and their property not mentioned by the appraiser analysis. Comparable 1 has only slightly less brick veneer (720 vs. 744); one more full bath; it has almost the same amount of living quarters in the lower level (basement); and it also has about 4000 square feet more land than they have.

The Board of Review did not submit additional information. This Board, like the Eddys, wonders why the other properties' assessments in the area decreased and their property assessment increased. The Eddys raised this issue to the Board of Review, but it failed to address that issue in their final decision.

After reviewing all the evidence, we find Eddys failed to provide enough persuasive evidence in support of either their equity or market value claims. Eddys did not show that their property is inequitably assessed using a ratio analysis or that uniform methods of valuation were not applied. Nor did they provide adjusted sales of comparable properties to show what the correct value of the subject property should be for a claim of over assessment. We recommend the Board of Review inspect the property for errors and review the comparable property cards.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the properties is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 573, 133 N.W.2d 709 (1965). The six criteria include evidence showing:

“(1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties. (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

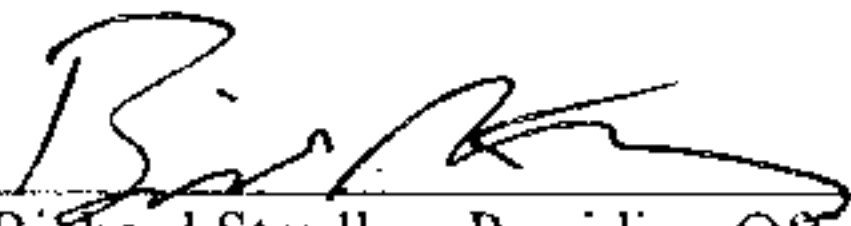
Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Eddys’ evidence does not establish inequity in the assessment under *Eagles Foods* or *Maxwell*.

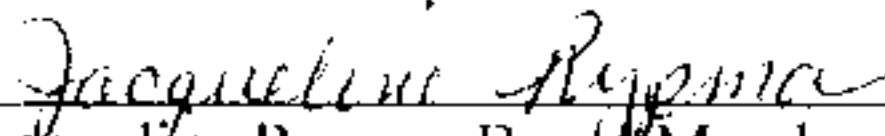
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 779 (Iowa 2009). The issue of comparability has two facets: the property must be comparable and the sale of that property must be a “normal transaction”. *Id.* at 782-83. When sales of other properties are offered, they must be adjusted for differences that affect market value. *Id.* at 783. These differences could include size, age, use, condition, and location, among others. *Id.* In addition, if a sale is “abnormal” or not arms-length, it must be analyzed to determine if an adjustment is necessary. *Id.* Eddys’ evidence did not establish a market value for the subject property that is less than its assessment.

The evidence in the record does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 3617 NW 90th Place, Polk City, Iowa, as determined by the Polk County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Eddys' property located at 3617 NW 90th Place, Polk City, Iowa, determined by the Polk County Board of Review is affirmed.

Dated this 24 day of April 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

Robert R. Eddy and Judith E. Eddy
3617 NW 90th Place
Polk City Des Moines, IA 50309
APPELLANTS

Ralph Marasco/David Hibbard/Anastasia Hurn
Assistant Polk County Attorneys
111 Court Avenue, Room 340
Des Moines, IA 50309
ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-24</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	